

or failed to act as specified in paragraph (a) of this section and affirms this determination in accordance with paragraph (c) of this section, HCFA may—

(1) Require the HMO or CMP to suspend acceptance of applications for enrollment made by Medicare beneficiaries during the sanction period;

(2) Suspend payments to the HMO or CMP for Medicare beneficiaries enrolled during the sanction period; and

(3) Require the HMO or CMP to suspend all marketing activities to Medicare enrollees.

(e) *Effective date and duration of sanctions*—(1) *Effective date*. Except as provided in paragraph (e)(2) of this section, a sanction is effective 15 days after the date that the organization is notified of the decision to impose the sanction or, if the HMO or CMP timely seeks reconsideration under paragraph (c) of this section, on the date specified in the notice of HCFA's reconsidered determination.

(2) *Exception*. If HCFA determines that the HMO's or CMP's conduct poses a serious threat to an enrollee's health and safety, HCFA may make the sanction effective on a date before issuance of HCFA's reconsidered determination.

(3) *Duration of sanction*. The sanction remains in effect until HCFA notifies the HMO or CMP that HCFA is satisfied that the basis for imposing the sanction has been corrected and is not likely to recur.

(f) *Termination by HCFA*. In addition to or as an alternative to the sanctions described in paragraph (d) of this section, HCFA may decline to renew a HMO's or CMP's contract in accordance with § 417.492(b), or terminate the contract in accordance with § 417.494(b).

(g) *Civil money penalties*. If HCFA determines that a HMO or CMP has committed an act or failed to comply with a requirement described in paragraph (a) of this section (with the exception of the requirement to limit the percentage of Medicare and Medicaid enrollees described in paragraph (a)(7) of this section), HCFA notifies the OIG of that determination. HCFA also conveys to the OIG information when it reverses or terminates a sanction imposed under this subpart. In accordance with the provisions of 42 CFR part 1003,

the OIG may impose civil money penalties on the HMO or CMP in addition to or in place of the sanctions that HCFA may impose under paragraph (d) of this section.

[59 FR 36083, July 15, 1994, as amended at 60 FR 45681, Sept. 1, 1995; 61 FR 13448, Mar. 27, 1996]

### **Subpart M—Change of Ownership and Leasing of Facilities: Effect on Medicare Contract**

#### **§ 417.520 Effect on HMO and CMP contracts.**

(a) The provisions set forth in subpart L of part 422 of this chapter also apply to Medicare contracts with HMOs and CMPs under section 1876 of the Act.

(b) In applying these provisions, references to "M+C organizations" must be read as references to "HMOs and CMPs".

(c) In § 422.550, reference to "subpart K of this part" must be read as reference to "subpart L of part 417 of this chapter".

(d) In § 422.553, reference to "subpart K of this part" must be read as reference to "subpart J of part 417 of this chapter".

[63 FR 35067, June 26, 1998]

### **Subpart N—Medicare Payment to HMOs and CMPs: General Rules**

#### **§ 417.524 Payment to HMOs or CMPs: General.**

(a) *Basic rule*. The payments that HCFA makes to an HMO or CMP under this subpart and subparts O and P of this part for furnishing covered Medicare services are in place of any payment that HCFA would otherwise make to a beneficiary or the HMO or CMP under sections 1814(b) and 1833(a) of the Act.

(b) *Basis of payment*. (1) HCFA pays the HMOs or CMPs on either a reasonable cost basis or a risk basis depending on the type of contract the HMO or CMP has with HCFA.

(2) In certain cases a risk HMO or CMP also receives payments on a reasonable cost basis for certain Medicare enrollees who retain nonrisk status, as